
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1006

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Ballasiotes, O'Brien, Benson, Radcliff, Quall, Mitchell, Dickerson, Cairnes, Hurst, Alexander and Lambert)

Read first time 03/03/1999. Referred to Committee on .

1 AN ACT Relating to sentencing for crimes involving drugs or
2 alcohol; amending RCW 9.94A.030, 9.94A.110, 9.94A.120, and 9.94A.137;
3 reenacting and amending RCW 9.94A.380; adding a new section to chapter
4 9.94A RCW; adding a new section to chapter 10.01 RCW; adding a new
5 section to chapter 2.28 RCW; creating new sections; and prescribing
6 penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 9.94A.030 and 1998 c 290 s 3 are each amended to read
9 as follows:

10 Unless the context clearly requires otherwise, the definitions in
11 this section apply throughout this chapter.

12 (1) "Collect," or any derivative thereof, "collect and remit," or
13 "collect and deliver," when used with reference to the department of
14 corrections, means that the department is responsible for monitoring
15 and enforcing the offender's sentence with regard to the legal
16 financial obligation, receiving payment thereof from the offender, and,
17 consistent with current law, delivering daily the entire payment to the
18 superior court clerk without depositing it in a departmental account.

19 (2) "Commission" means the sentencing guidelines commission.

1 (3) "Community corrections officer" means an employee of the
2 department who is responsible for carrying out specific duties in
3 supervision of sentenced offenders and monitoring of sentence
4 conditions.

5 (4) "Community custody" means that portion of an inmate's sentence
6 of confinement in lieu of earned early release time or imposed pursuant
7 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to
8 controls placed on the inmate's movement and activities by the
9 department of corrections.

10 (5) "Community placement" means that period during which the
11 offender is subject to the conditions of community custody and/or
12 postrelease supervision, which begins either upon completion of the
13 term of confinement (postrelease supervision) or at such time as the
14 offender is transferred to community custody in lieu of earned early
15 release. Community placement may consist of entirely community
16 custody, entirely postrelease supervision, or a combination of the two.

17 (6) "Community service" means compulsory service, without
18 compensation, performed for the benefit of the community by the
19 offender.

20 (7) "Community supervision" means a period of time during which a
21 convicted offender is subject to crime-related prohibitions and other
22 sentence conditions imposed by a court pursuant to this chapter or RCW
23 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
24 may include crime-related prohibitions and other conditions imposed
25 pursuant to RCW 9.94A.120(5). Where the court finds that any offender
26 has a chemical dependency that has contributed to his or her offense,
27 the conditions of supervision may, subject to available resources,
28 include treatment. For purposes of the interstate compact for out-of-
29 state supervision of parolees and probationers, RCW 9.95.270, community
30 supervision is the functional equivalent of probation and should be
31 considered the same as probation by other states.

32 (8) "Confinement" means total or partial confinement as defined in
33 this section.

34 (9) "Conviction" means an adjudication of guilt pursuant to Titles
35 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
36 acceptance of a plea of guilty.

37 (10) "Court-ordered legal financial obligation" means a sum of
38 money that is ordered by a superior court of the state of Washington
39 for legal financial obligations which may include restitution to the

1 victim, statutorily imposed crime victims' compensation fees as
2 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
3 drug funds, court-appointed attorneys' fees, and costs of defense,
4 fines, and any other financial obligation that is assessed to the
5 offender as a result of a felony conviction. Upon conviction for
6 vehicular assault while under the influence of intoxicating liquor or
7 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
8 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
9 legal financial obligations may also include payment to a public agency
10 of the expense of an emergency response to the incident resulting in
11 the conviction, subject to the provisions in RCW 38.52.430.

12 (11) "Crime-related prohibition" means an order of a court
13 prohibiting conduct that directly relates to the circumstances of the
14 crime for which the offender has been convicted, and shall not be
15 construed to mean orders directing an offender affirmatively to
16 participate in rehabilitative programs or to otherwise perform
17 affirmative conduct. However, affirmative acts necessary to monitor
18 compliance with the order of a court may be required by the department.

19 (12) "Criminal history" means the list of a defendant's prior
20 convictions and juvenile adjudications, whether in this state, in
21 federal court, or elsewhere. The history shall include, where known,
22 for each conviction (a) whether the defendant has been placed on
23 probation and the length and terms thereof; and (b) whether the
24 defendant has been incarcerated and the length of incarceration.

25 (13) "Day fine" means a fine imposed by the sentencing judge that
26 equals the difference between the offender's net daily income and the
27 reasonable obligations that the offender has for the support of the
28 offender and any dependents.

29 (14) "Day reporting" means a program of enhanced supervision
30 designed to monitor the defendant's daily activities and compliance
31 with sentence conditions, and in which the defendant is required to
32 report daily to a specific location designated by the department or the
33 sentencing judge.

34 (15) "Department" means the department of corrections.

35 (16) "Determinate sentence" means a sentence that states with
36 exactitude the number of actual years, months, or days of total
37 confinement, of partial confinement, of community supervision, the
38 number of actual hours or days of community service work, or dollars or
39 terms of a legal financial obligation. The fact that an offender

1 through "earned early release" can reduce the actual period of
2 confinement shall not affect the classification of the sentence as a
3 determinate sentence.

4 (17) "Disposable earnings" means that part of the earnings of an
5 individual remaining after the deduction from those earnings of any
6 amount required by law to be withheld. For the purposes of this
7 definition, "earnings" means compensation paid or payable for personal
8 services, whether denominated as wages, salary, commission, bonuses, or
9 otherwise, and, notwithstanding any other provision of law making the
10 payments exempt from garnishment, attachment, or other process to
11 satisfy a court-ordered legal financial obligation, specifically
12 includes periodic payments pursuant to pension or retirement programs,
13 or insurance policies of any type, but does not include payments made
14 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
15 or Title 74 RCW.

16 (18) "Drug offense" means:

17 (a) Any felony violation of chapter 69.50 RCW except possession of
18 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
19 controlled substance (RCW 69.50.403);

20 (b) Any offense defined as a felony under federal law that relates
21 to the possession, manufacture, distribution, or transportation of a
22 controlled substance; or

23 (c) Any out-of-state conviction for an offense that under the laws
24 of this state would be a felony classified as a drug offense under (a)
25 of this subsection.

26 (19) "Escape" means:

27 (a) Escape in the first degree (RCW 9A.76.110), escape in the
28 second degree (RCW 9A.76.120), willful failure to return from furlough
29 (RCW 72.66.060), willful failure to return from work release (RCW
30 72.65.070), or willful failure to be available for supervision by the
31 department while in community custody (RCW 72.09.310); or

32 (b) Any federal or out-of-state conviction for an offense that
33 under the laws of this state would be a felony classified as an escape
34 under (a) of this subsection.

35 (20) "Felony traffic offense" means:

36 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
37 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
38 and-run injury-accident (RCW 46.52.020(4)); or

1 (b) Any federal or out-of-state conviction for an offense that
2 under the laws of this state would be a felony classified as a felony
3 traffic offense under (a) of this subsection.

4 (21) "Fines" means the requirement that the offender pay a specific
5 sum of money over a specific period of time to the court.

6 (22) "First-time offender" means any person who is convicted of a
7 felony (a) not classified as a violent offense or a sex offense under
8 this chapter, or (b) that is not the manufacture, delivery, or
9 possession with intent to manufacture or deliver a controlled substance
10 classified in Schedule I or II that is a narcotic drug or flunitrazepam
11 classified in Schedule IV, nor the manufacture, delivery, or possession
12 with intent to deliver methamphetamine, its salts, isomers, and salts
13 of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for
14 profit of any controlled substance or counterfeit substance classified
15 in Schedule I, RCW 69.50.204, except leaves and flowering tops of
16 marihuana, who previously has never been convicted of a felony in this
17 state, federal court, or another state, and who has never participated
18 in a program of deferred prosecution for a felony offense.

19 (23) "Most serious offense" means any of the following felonies or
20 a felony attempt to commit any of the following felonies, as now
21 existing or hereafter amended:

22 (a) Any felony defined under any law as a class A felony or
23 criminal solicitation of or criminal conspiracy to commit a class A
24 felony;

25 (b) Assault in the second degree;

26 (c) Assault of a child in the second degree;

27 (d) Child molestation in the second degree;

28 (e) Controlled substance homicide;

29 (f) Extortion in the first degree;

30 (g) Incest when committed against a child under age fourteen;

31 (h) Indecent liberties;

32 (i) Kidnapping in the second degree;

33 (j) Leading organized crime;

34 (k) Manslaughter in the first degree;

35 (l) Manslaughter in the second degree;

36 (m) Promoting prostitution in the first degree;

37 (n) Rape in the third degree;

38 (o) Robbery in the second degree;

39 (p) Sexual exploitation;

1 (q) Vehicular assault;

2 (r) Vehicular homicide, when proximately caused by the driving of
3 any vehicle by any person while under the influence of intoxicating
4 liquor or any drug as defined by RCW 46.61.502, or by the operation of
5 any vehicle in a reckless manner;

6 (s) Any other class B felony offense with a finding of sexual
7 motivation, as "sexual motivation" is defined under this section;

8 (t) Any other felony with a deadly weapon verdict under RCW
9 9.94A.125;

10 (u) Any felony offense in effect at any time prior to December 2,
11 1993, that is comparable to a most serious offense under this
12 subsection, or any federal or out-of-state conviction for an offense
13 that under the laws of this state would be a felony classified as a
14 most serious offense under this subsection;

15 (v)(i) A prior conviction for indecent liberties under RCW
16 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
17 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
18 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
19 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

20 (ii) A prior conviction for indecent liberties under RCW
21 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
22 if: (A) The crime was committed against a child under the age of
23 fourteen; or (B) the relationship between the victim and perpetrator is
24 included in the definition of indecent liberties under RCW
25 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
26 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
27 through July 27, 1997.

28 (24) "Nonviolent offense" means an offense which is not a violent
29 offense.

30 (25) "Offender" means a person who has committed a felony
31 established by state law and is eighteen years of age or older or is
32 less than eighteen years of age but whose case is under superior court
33 jurisdiction under RCW 13.04.030 or has been transferred by the
34 appropriate juvenile court to a criminal court pursuant to RCW
35 13.40.110. Throughout this chapter, the terms "offender" and
36 "defendant" are used interchangeably.

37 (26) "Partial confinement" means confinement for no more than one
38 year in a facility or institution operated or utilized under contract
39 by the state or any other unit of government, or, if home detention or

1 work crew has been ordered by the court, in an approved residence, for
2 a substantial portion of each day with the balance of the day spent in
3 the community. Partial confinement includes work release, home
4 detention, work crew, and a combination of work crew and home detention
5 as defined in this section.

6 (27) "Persistent offender" is an offender who:

7 (a)(i) Has been convicted in this state of any felony considered a
8 most serious offense; and

9 (ii) Has, before the commission of the offense under (a) of this
10 subsection, been convicted as an offender on at least two separate
11 occasions, whether in this state or elsewhere, of felonies that under
12 the laws of this state would be considered most serious offenses and
13 would be included in the offender score under RCW 9.94A.360; provided
14 that of the two or more previous convictions, at least one conviction
15 must have occurred before the commission of any of the other most
16 serious offenses for which the offender was previously convicted; or

17 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
18 of a child in the first degree, child molestation in the first degree,
19 rape in the second degree, rape of a child in the second degree, or
20 indecent liberties by forcible compulsion; (B) murder in the first
21 degree, murder in the second degree, homicide by abuse, kidnapping in
22 the first degree, kidnapping in the second degree, assault in the first
23 degree, assault in the second degree, assault of a child in the first
24 degree, or burglary in the first degree, with a finding of sexual
25 motivation; or (C) an attempt to commit any crime listed in this
26 subsection (27)(b)(i); and

27 (ii) Has, before the commission of the offense under (b)(i) of this
28 subsection, been convicted as an offender on at least one occasion,
29 whether in this state or elsewhere, of an offense listed in (b)(i) of
30 this subsection. A conviction for rape of a child in the first degree
31 constitutes a conviction under subsection (27)(b)(i) only when the
32 offender was sixteen years of age or older when the offender committed
33 the offense. A conviction for rape of a child in the second degree
34 constitutes a conviction under subsection (27)(b)(i) only when the
35 offender was eighteen years of age or older when the offender committed
36 the offense.

37 (28) "Postrelease supervision" is that portion of an offender's
38 community placement that is not community custody.

1 (29) "Restitution" means the requirement that the offender pay a
2 specific sum of money over a specific period of time to the court as
3 payment of damages. The sum may include both public and private costs.
4 The imposition of a restitution order does not preclude civil redress.

5 (30) "Serious traffic offense" means:

6 (a) Driving while under the influence of intoxicating liquor or any
7 drug (RCW 46.61.502), actual physical control while under the influence
8 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
9 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
10 or

11 (b) Any federal, out-of-state, county, or municipal conviction for
12 an offense that under the laws of this state would be classified as a
13 serious traffic offense under (a) of this subsection.

14 (31) "Serious violent offense" is a subcategory of violent offense
15 and means:

16 (a) Murder in the first degree, homicide by abuse, murder in the
17 second degree, manslaughter in the first degree, assault in the first
18 degree, kidnapping in the first degree, or rape in the first degree,
19 assault of a child in the first degree, or an attempt, criminal
20 solicitation, or criminal conspiracy to commit one of these felonies;
21 or

22 (b) Any federal or out-of-state conviction for an offense that
23 under the laws of this state would be a felony classified as a serious
24 violent offense under (a) of this subsection.

25 (32) "Sentence range" means the sentencing court's discretionary
26 range in imposing a nonappealable sentence.

27 (33) "Sex offense" means:

28 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
29 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
30 criminal attempt, criminal solicitation, or criminal conspiracy to
31 commit such crimes;

32 (b) A felony with a finding of sexual motivation under RCW
33 9.94A.127 or 13.40.135; or

34 (c) Any federal or out-of-state conviction for an offense that
35 under the laws of this state would be a felony classified as a sex
36 offense under (a) of this subsection.

37 (34) "Sexual motivation" means that one of the purposes for which
38 the defendant committed the crime was for the purpose of his or her
39 sexual gratification.

1 (35) "Total confinement" means confinement inside the physical
2 boundaries of a facility or institution operated or utilized under
3 contract by the state or any other unit of government for twenty-four
4 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

5 (36) "Transition training" means written and verbal instructions
6 and assistance provided by the department to the offender during the
7 two weeks prior to the offender's successful completion of the work
8 ethic camp program. The transition training shall include instructions
9 in the offender's requirements and obligations during the offender's
10 period of community custody.

11 (37) "Victim" means any person who has sustained emotional,
12 psychological, physical, or financial injury to person or property as
13 a direct result of the crime charged.

14 (38) "Violent offense" means:

15 (a) Any of the following felonies, as now existing or hereafter
16 amended: Any felony defined under any law as a class A felony or an
17 attempt to commit a class A felony, criminal solicitation of or
18 criminal conspiracy to commit a class A felony, manslaughter in the
19 first degree, manslaughter in the second degree, indecent liberties if
20 committed by forcible compulsion, kidnapping in the second degree,
21 arson in the second degree, assault in the second degree, assault of a
22 child in the second degree, extortion in the first degree, robbery in
23 the second degree, drive-by shooting, vehicular assault, and vehicular
24 homicide, when proximately caused by the driving of any vehicle by any
25 person while under the influence of intoxicating liquor or any drug as
26 defined by RCW 46.61.502, or by the operation of any vehicle in a
27 reckless manner;

28 (b) Any conviction for a felony offense in effect at any time prior
29 to July 1, 1976, that is comparable to a felony classified as a violent
30 offense in (a) of this subsection; and

31 (c) Any federal or out-of-state conviction for an offense that
32 under the laws of this state would be a felony classified as a violent
33 offense under (a) or (b) of this subsection.

34 (39) "Work crew" means a program of partial confinement consisting
35 of civic improvement tasks for the benefit of the community of not less
36 than thirty-five hours per week that complies with RCW 9.94A.135. The
37 civic improvement tasks shall have minimal negative impact on existing
38 private industries or the labor force in the county where the service
39 or labor is performed. The civic improvement tasks shall not affect

1 employment opportunities for people with developmental disabilities
2 contracted through sheltered workshops as defined in RCW 82.04.385.
3 Only those offenders sentenced to a facility operated or utilized under
4 contract by a county or the state are eligible to participate on a work
5 crew. Offenders sentenced for a sex offense as defined in subsection
6 (33) of this section are not eligible for the work crew program.

7 (40) "Work ethic camp" means an alternative incarceration program
8 designed to reduce recidivism and lower the cost of corrections by
9 requiring offenders to complete a comprehensive array of real-world job
10 and vocational experiences, character-building work ethics training,
11 life management skills development, substance abuse rehabilitation,
12 counseling, literacy training, and basic adult education.

13 (41) "Work release" means a program of partial confinement
14 available to offenders who are employed or engaged as a student in a
15 regular course of study at school. Participation in work release shall
16 be conditioned upon the offender attending work or school at regularly
17 defined hours and abiding by the rules of the work release facility.

18 (42) "Home detention" means a program of partial confinement
19 available to offenders wherein the offender is confined in a private
20 residence subject to electronic surveillance.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW
22 to read as follows:

23 (1) Where the court finds that the offender has a chemical
24 dependency that has contributed to his or her offense, the court may,
25 as a condition of the sentence and subject to available resources,
26 order the offender to participate in rehabilitative programs or
27 otherwise to perform affirmative conduct reasonably related to the
28 circumstances of the crime for which the offender has been convicted
29 and reasonably necessary or beneficial to the offender and the
30 community in rehabilitating the offender.

31 (2) This section applies to sentences which include any term other
32 than, or in addition to, a term of total confinement, including
33 suspended sentences.

34 **Sec. 3.** RCW 9.94A.110 and 1998 c 260 s 2 are each amended to read
35 as follows:

36 Before imposing a sentence upon a defendant, the court shall
37 conduct a sentencing hearing. The sentencing hearing shall be held

1 within forty court days following conviction. Upon the motion of
2 either party for good cause shown, or on its own motion, the court may
3 extend the time period for conducting the sentencing hearing.

4 Unless specifically waived by the court, the court shall order the
5 department to complete a chemical dependency screening report before
6 imposing a sentence upon a defendant who has been convicted of a
7 violation of the uniform controlled substances act under chapter 69.50
8 RCW or where the court finds that the offender has a chemical
9 dependency that has contributed to his or her offense. In addition,
10 the court shall order the department to complete a presentence report
11 before imposing a sentence upon a defendant who has been convicted of
12 a felony sexual offense. The department of corrections shall give
13 priority to presentence investigations for sexual offenders. If the
14 court determines that the defendant may be a mentally ill person as
15 defined in RCW 71.24.025, although the defendant has not established
16 that at the time of the crime he or she lacked the capacity to commit
17 the crime, was incompetent to commit the crime, or was insane at the
18 time of the crime, the court shall order the department to complete a
19 presentence report before imposing a sentence.

20 The court shall consider the presentence reports, if any, including
21 any victim impact statement and criminal history, and allow arguments
22 from the prosecutor, the defense counsel, the offender, the victim, the
23 survivor of the victim, or a representative of the victim or survivor,
24 and an investigative law enforcement officer as to the sentence to be
25 imposed.

26 If the court is satisfied by a preponderance of the evidence that
27 the defendant has a criminal history, the court shall specify the
28 convictions it has found to exist. All of this information shall be
29 part of the record. Copies of all presentence reports presented to the
30 sentencing court and all written findings of facts and conclusions of
31 law as to sentencing entered by the court shall be sent to the
32 department by the clerk of the court at the conclusion of the
33 sentencing and shall accompany the offender if the offender is
34 committed to the custody of the department. Court clerks shall
35 provide, without charge, certified copies of documents relating to
36 criminal convictions requested by prosecuting attorneys.

37 **Sec. 4.** RCW 9.94A.120 and 1998 c 260 s 3 are each amended to read
38 as follows:

1 When a person is convicted of a felony, the court shall impose
2 punishment as provided in this section.

3 (1) Except as authorized in subsections (2), (4), (5), (6), and (8)
4 of this section, the court shall impose a sentence within the sentence
5 range for the offense.

6 (2) The court may impose a sentence outside the standard sentence
7 range for that offense if it finds, considering the purpose of this
8 chapter, that there are substantial and compelling reasons justifying
9 an exceptional sentence.

10 (3) Whenever a sentence outside the standard range is imposed, the
11 court shall set forth the reasons for its decision in written findings
12 of fact and conclusions of law. A sentence outside the standard range
13 shall be a determinate sentence.

14 (4) A persistent offender shall be sentenced to a term of total
15 confinement for life without the possibility of parole or, when
16 authorized by RCW 10.95.030 for the crime of aggravated murder in the
17 first degree, sentenced to death, notwithstanding the maximum sentence
18 under any other law. An offender convicted of the crime of murder in
19 the first degree shall be sentenced to a term of total confinement not
20 less than twenty years. An offender convicted of the crime of assault
21 in the first degree or assault of a child in the first degree where the
22 offender used force or means likely to result in death or intended to
23 kill the victim shall be sentenced to a term of total confinement not
24 less than five years. An offender convicted of the crime of rape in
25 the first degree shall be sentenced to a term of total confinement not
26 less than five years. The foregoing minimum terms of total confinement
27 are mandatory and shall not be varied or modified as provided in
28 subsection (2) of this section. In addition, all offenders subject to
29 the provisions of this subsection shall not be eligible for community
30 custody, earned early release time, furlough, home detention, partial
31 confinement, work crew, work release, or any other form of early
32 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),
33 or any other form of authorized leave of absence from the correctional
34 facility while not in the direct custody of a corrections officer or
35 officers during such minimum terms of total confinement except in the
36 case of an offender in need of emergency medical treatment or for the
37 purpose of commitment to an inpatient treatment facility in the case of
38 an offender convicted of the crime of rape in the first degree.

1 (5) In sentencing a first-time offender the court may waive the
2 imposition of a sentence within the sentence range and impose a
3 sentence which may include up to ninety days of confinement in a
4 facility operated or utilized under contract by the county and a
5 requirement that the offender refrain from committing new offenses.
6 The sentence may also include up to two years of community supervision,
7 which, in addition to crime-related prohibitions, may include
8 requirements that the offender perform any one or more of the
9 following:

10 (a) Devote time to a specific employment or occupation;

11 (b) Undergo available outpatient treatment for up to two years, or
12 inpatient treatment not to exceed the standard range of confinement for
13 that offense;

14 (c) Pursue a prescribed, secular course of study or vocational
15 training;

16 (d) Remain within prescribed geographical boundaries and notify the
17 court or the community corrections officer prior to any change in the
18 offender's address or employment;

19 (e) Report as directed to the court and a community corrections
20 officer; or

21 (f) Pay all court-ordered legal financial obligations as provided
22 in RCW 9.94A.030 and/or perform community service work.

23 (6)(a) An offender is eligible for the special drug offender
24 sentencing alternative if:

25 (i) ~~The offender is convicted of ((the manufacture, delivery, or~~
26 ~~possession with intent to manufacture or deliver a controlled substance~~
27 ~~classified in Schedule I or II that is a narcotic drug or a felony that~~
28 ~~is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,~~
29 ~~criminal solicitation, or criminal conspiracy to commit such crimes,))~~
30 a felony that is not a violent offense or sex offense and the violation
31 does not involve a sentence enhancement under RCW 9.94A.310 (3) or (4);

32 (ii) The offender has no current or prior convictions for a
33 ~~((felony))~~ sex offense or violent offense in this state, another state,
34 or the United States; ~~((and))~~

35 (iii) For violations of the uniform controlled substances act under
36 chapter 69.50 RCW, the offense involved only a small quantity of the
37 particular controlled substance as determined by the judge upon
38 consideration of such factors as the weight, purity, packaging, sale
39 price, and street value of the controlled substance; and

1 (iv) The offender has not been found by the United States attorney
2 general to be subject to a deportation detainer or order.

3 (b) If the ~~((midpoint of the))~~ standard range is greater than one
4 year and the sentencing judge determines that the offender is eligible
5 for this option and that the offender and the community will benefit
6 from the use of the special drug offender sentencing alternative, the
7 judge may waive imposition of a sentence within the standard range and
8 impose a sentence that must include a period of total confinement in a
9 state facility for one-half of the midpoint of the standard range.
10 During incarceration in the state facility, offenders sentenced under
11 this subsection shall undergo a comprehensive substance abuse
12 assessment and receive, within available resources, treatment services
13 appropriate for the offender. The treatment services shall be designed
14 by the division of alcohol and substance abuse of the department of
15 social and health services, in cooperation with the department of
16 corrections. ~~((If the midpoint of the standard range is twenty four
17 months or less, no more than three months of the sentence may be served
18 in a work release status.))~~

19 The court shall also impose ~~((one year of concurrent community
20 custody and community supervision that))~~:

21 (i) The remainder of the midpoint of the standard range as a term
22 of community custody which must include appropriate ~~((outpatient))~~
23 substance abuse treatment((7)) in a program that has been approved by
24 the division of alcohol and substance abuse of the department of social
25 and health services;

26 (ii) Crime-related prohibitions including a condition not to use
27 illegal controlled substances((7)); and

28 (iii) A requirement to submit to urinalysis or other testing to
29 monitor that status.

30 The court may prohibit the offender from using alcohol or
31 controlled substances and may require that the monitoring for
32 controlled substances be conducted by the department or by a treatment
33 alternatives to street crime program or a comparable court or agency-
34 referred program. The offender may be required to pay thirty dollars
35 per month while on community custody to offset the cost of monitoring.
36 In addition, the court shall impose three or more of the following
37 conditions:

38 ~~((+i))~~ (A) Devote time to a specific employment or training;

1 ~~((ii))~~ (B) Remain within prescribed geographical boundaries and
2 notify the court or the community corrections officer before any change
3 in the offender's address or employment;

4 ~~((iii))~~ (C) Report as directed to a community corrections
5 officer;

6 ~~((iv))~~ (D) Pay all court-ordered legal financial obligations;

7 ~~((v))~~ (E) Perform community service work;

8 ~~((vi))~~ (F) Stay out of areas designated by the sentencing judge;

9 (G) Such other conditions as the court may require such as
10 affirmative conditions.

11 (c) If the offender violates any of the sentence conditions in (b)
12 of this subsection, ~~((the department shall impose sanctions~~
13 ~~administratively, with notice to the prosecuting attorney and the~~
14 ~~sentencing court. Upon motion of the court or the prosecuting~~
15 ~~attorney,)) a violation hearing shall be held by the ~~((court))~~
16 department unless waived by the offender. If the ~~((court))~~ department
17 finds that conditions have been willfully violated, the ~~((court may~~
18 ~~impose confinement consisting of up to the remaining one half of the~~
19 ~~midpoint of the standard range. All total confinement served during~~
20 ~~the period of community custody shall be credited to the offender,~~
21 ~~regardless of whether the total confinement is served as a result of~~
22 ~~the original sentence, as a result of a sanction imposed by the~~
23 ~~department, or as a result of a violation found by the court. The term~~
24 ~~of community supervision shall be tolled by any period of time served~~
25 ~~in total confinement as a result of a violation found by the court))~~
26 offender may be reclassified to serve the remaining balance of the
27 original sentence.~~

28 (d) The department shall determine the rules for calculating the
29 value of a day fine based on the offender's income and reasonable
30 obligations which the offender has for the support of the offender and
31 any dependents. These rules shall be developed in consultation with
32 the administrator for the courts, the office of financial management,
33 and the commission.

34 (e) An offender who fails to complete the special drug offender
35 sentencing alternative program or who is administratively terminated
36 from the program shall be reclassified to serve the unexpired term of
37 his or her sentence as ordered by the sentencing judge and shall be
38 subject to all rules relating to earned early release time. An
39 offender who violates any conditions of supervision as defined by the

1 department shall be sanctioned. Sanctions may include, but are not
2 limited to, reclassifying the offender to serve the unexpired term of
3 his or her sentence as ordered by the sentencing judge. If an offender
4 is reclassified to serve the unexpired term of his or her sentence, the
5 offender shall be subject to all rules relating to earned early release
6 time.

7 (7) If a sentence range has not been established for the
8 defendant's crime, the court shall impose a determinate sentence which
9 may include not more than one year of confinement, community service
10 work, a term of community supervision not to exceed one year, and/or
11 other legal financial obligations. The court may impose a sentence
12 which provides more than one year of confinement if the court finds,
13 considering the purpose of this chapter, that there are substantial and
14 compelling reasons justifying an exceptional sentence.

15 (8)(a)(i) When an offender is convicted of a sex offense other than
16 a violation of RCW 9A.44.050 or a sex offense that is also a serious
17 violent offense and has no prior convictions for a sex offense or any
18 other felony sex offenses in this or any other state, the sentencing
19 court, on its own motion or the motion of the state or the defendant,
20 may order an examination to determine whether the defendant is amenable
21 to treatment.

22 The report of the examination shall include at a minimum the
23 following: The defendant's version of the facts and the official
24 version of the facts, the defendant's offense history, an assessment of
25 problems in addition to alleged deviant behaviors, the offender's
26 social and employment situation, and other evaluation measures used.
27 The report shall set forth the sources of the evaluator's information.

28 The examiner shall assess and report regarding the defendant's
29 amenability to treatment and relative risk to the community. A
30 proposed treatment plan shall be provided and shall include, at a
31 minimum:

32 (A) Frequency and type of contact between offender and therapist;

33 (B) Specific issues to be addressed in the treatment and
34 description of planned treatment modalities;

35 (C) Monitoring plans, including any requirements regarding living
36 conditions, lifestyle requirements, and monitoring by family members
37 and others;

38 (D) Anticipated length of treatment; and

39 (E) Recommended crime-related prohibitions.

1 The court on its own motion may order, or on a motion by the state
2 shall order, a second examination regarding the offender's amenability
3 to treatment. The evaluator shall be selected by the party making the
4 motion. The defendant shall pay the cost of any second examination
5 ordered unless the court finds the defendant to be indigent in which
6 case the state shall pay the cost.

7 (ii) After receipt of the reports, the court shall consider whether
8 the offender and the community will benefit from use of this special
9 sex offender sentencing alternative and consider the victim's opinion
10 whether the offender should receive a treatment disposition under this
11 subsection. If the court determines that this special sex offender
12 sentencing alternative is appropriate, the court shall then impose a
13 sentence within the sentence range. If this sentence is less than
14 eleven years of confinement, the court may suspend the execution of the
15 sentence and impose the following conditions of suspension:

16 (A) The court shall place the defendant on community custody for
17 the length of the suspended sentence or three years, whichever is
18 greater, and require the offender to comply with any conditions imposed
19 by the department of corrections under subsection (14) of this section;

20 (B) The court shall order treatment for any period up to three
21 years in duration. The court in its discretion shall order outpatient
22 sex offender treatment or inpatient sex offender treatment, if
23 available. A community mental health center may not be used for such
24 treatment unless it has an appropriate program designed for sex
25 offender treatment. The offender shall not change sex offender
26 treatment providers or treatment conditions without first notifying the
27 prosecutor, the community corrections officer, and the court, and shall
28 not change providers without court approval after a hearing if the
29 prosecutor or community corrections officer object to the change. In
30 addition, as conditions of the suspended sentence, the court may impose
31 other sentence conditions including up to six months of confinement,
32 not to exceed the sentence range of confinement for that offense,
33 crime-related prohibitions, and requirements that the offender perform
34 any one or more of the following:

35 (I) Devote time to a specific employment or occupation;

36 (II) Remain within prescribed geographical boundaries and notify
37 the court or the community corrections officer prior to any change in
38 the offender's address or employment;

1 (III) Report as directed to the court and a community corrections
2 officer;

3 (IV) Pay all court-ordered legal financial obligations as provided
4 in RCW 9.94A.030, perform community service work, or any combination
5 thereof; or

6 (V) Make recoupment to the victim for the cost of any counseling
7 required as a result of the offender's crime; and

8 (C) Sex offenders sentenced under this special sex offender
9 sentencing alternative are not eligible to accrue any earned early
10 release time while serving a suspended sentence.

11 (iii) The sex offender therapist shall submit quarterly reports on
12 the defendant's progress in treatment to the court and the parties.
13 The report shall reference the treatment plan and include at a minimum
14 the following: Dates of attendance, defendant's compliance with
15 requirements, treatment activities, the defendant's relative progress
16 in treatment, and any other material as specified by the court at
17 sentencing.

18 (iv) At the time of sentencing, the court shall set a treatment
19 termination hearing for three months prior to the anticipated date for
20 completion of treatment. Prior to the treatment termination hearing,
21 the treatment professional and community corrections officer shall
22 submit written reports to the court and parties regarding the
23 defendant's compliance with treatment and monitoring requirements, and
24 recommendations regarding termination from treatment, including
25 proposed community supervision conditions. Either party may request
26 and the court may order another evaluation regarding the advisability
27 of termination from treatment. The defendant shall pay the cost of any
28 additional evaluation ordered unless the court finds the defendant to
29 be indigent in which case the state shall pay the cost. At the
30 treatment termination hearing the court may: (A) Modify conditions of
31 community custody, and either (B) terminate treatment, or (C) extend
32 treatment for up to the remaining period of community custody.

33 (v) If a violation of conditions occurs during community custody,
34 the department shall either impose sanctions as provided for in RCW
35 9.94A.205(2)(a) or refer the violation to the court and recommend
36 revocation of the suspended sentence as provided for in (a)(vi) of this
37 subsection.

38 (vi) The court may revoke the suspended sentence at any time during
39 the period of community custody and order execution of the sentence if:

1 (A) The defendant violates the conditions of the suspended sentence, or
2 (B) the court finds that the defendant is failing to make satisfactory
3 progress in treatment. All confinement time served during the period
4 of community custody shall be credited to the offender if the suspended
5 sentence is revoked.

6 (vii) Except as provided in (a)(viii) of this subsection, after
7 July 1, 1991, examinations and treatment ordered pursuant to this
8 subsection shall only be conducted by sex offender treatment providers
9 certified by the department of health pursuant to chapter 18.155 RCW.

10 (viii) A sex offender therapist who examines or treats a sex
11 offender pursuant to this subsection (8) does not have to be certified
12 by the department of health pursuant to chapter 18.155 RCW if the court
13 finds that: (A) The offender has already moved to another state or
14 plans to move to another state for reasons other than circumventing the
15 certification requirements; (B) no certified providers are available
16 for treatment within a reasonable geographical distance of the
17 offender's home; and (C) the evaluation and treatment plan comply with
18 this subsection (8) and the rules adopted by the department of health.

19 (ix) For purposes of this subsection (8), "victim" means any person
20 who has sustained emotional, psychological, physical, or financial
21 injury to person or property as a result of the crime charged.
22 "Victim" also means a parent or guardian of a victim who is a minor
23 child unless the parent or guardian is the perpetrator of the offense.

24 (x) If the defendant was less than eighteen years of age when the
25 charge was filed, the state shall pay for the cost of initial
26 evaluation and treatment.

27 (b) When an offender commits any felony sex offense on or after
28 July 1, 1987, and is sentenced to a term of confinement of more than
29 one year but less than six years, the sentencing court may, on its own
30 motion or on the motion of the offender or the state, request the
31 department of corrections to evaluate whether the offender is amenable
32 to treatment and the department may place the offender in a treatment
33 program within a correctional facility operated by the department.

34 Except for an offender who has been convicted of a violation of RCW
35 9A.44.040 or 9A.44.050, if the offender completes the treatment program
36 before the expiration of his or her term of confinement, the department
37 of corrections may request the court to convert the balance of
38 confinement to community supervision and to place conditions on the

1 offender including crime-related prohibitions and requirements that the
2 offender perform any one or more of the following:

3 (i) Devote time to a specific employment or occupation;

4 (ii) Remain within prescribed geographical boundaries and notify
5 the court or the community corrections officer prior to any change in
6 the offender's address or employment;

7 (iii) Report as directed to the court and a community corrections
8 officer;

9 (iv) Undergo available outpatient treatment.

10 If the offender violates any of the terms of his or her community
11 supervision, the court may order the offender to serve out the balance
12 of his or her community supervision term in confinement in the custody
13 of the department of corrections.

14 Nothing in this subsection (8)(b) shall confer eligibility for such
15 programs for offenders convicted and sentenced for a sex offense
16 committed prior to July 1, 1987. This subsection (8)(b) does not apply
17 to any crime committed after July 1, 1990.

18 (c) Offenders convicted and sentenced for a sex offense committed
19 prior to July 1, 1987, may, subject to available funds, request an
20 evaluation by the department of corrections to determine whether they
21 are amenable to treatment. If the offender is determined to be
22 amenable to treatment, the offender may request placement in a
23 treatment program within a correctional facility operated by the
24 department. Placement in such treatment program is subject to
25 available funds.

26 (9)(a) When a court sentences a person to a term of total
27 confinement to the custody of the department of corrections for an
28 offense categorized as a sex offense or a serious violent offense
29 committed after July 1, 1988, but before July 1, 1990, assault in the
30 second degree, assault of a child in the second degree, any crime
31 against a person where it is determined in accordance with RCW
32 9.94A.125 that the defendant or an accomplice was armed with a deadly
33 weapon at the time of commission, or any felony offense under chapter
34 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
35 committed on or after July 1, 1988, the court shall in addition to the
36 other terms of the sentence, sentence the offender to a one-year term
37 of community placement beginning either upon completion of the term of
38 confinement or at such time as the offender is transferred to community
39 custody in lieu of earned early release in accordance with RCW

1 9.94A.150 (1) and (2). When the court sentences an offender under this
2 subsection to the statutory maximum period of confinement then the
3 community placement portion of the sentence shall consist entirely of
4 such community custody to which the offender may become eligible, in
5 accordance with RCW 9.94A.150 (1) and (2). Any period of community
6 custody actually served shall be credited against the community
7 placement portion of the sentence.

8 (b) When a court sentences a person to a term of total confinement
9 to the custody of the department of corrections for an offense
10 categorized as a sex offense committed on or after July 1, 1990, but
11 before June 6, 1996, a serious violent offense, vehicular homicide, or
12 vehicular assault, committed on or after July 1, 1990, the court shall
13 in addition to other terms of the sentence, sentence the offender to
14 community placement for two years or up to the period of earned early
15 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is
16 longer. The community placement shall begin either upon completion of
17 the term of confinement or at such time as the offender is transferred
18 to community custody in lieu of earned early release in accordance with
19 RCW 9.94A.150 (1) and (2). When the court sentences an offender under
20 this subsection to the statutory maximum period of confinement then the
21 community placement portion of the sentence shall consist entirely of
22 the community custody to which the offender may become eligible, in
23 accordance with RCW 9.94A.150 (1) and (2). Any period of community
24 custody actually served shall be credited against the community
25 placement portion of the sentence. Unless a condition is waived by the
26 court, the terms of community placement for offenders sentenced
27 pursuant to this section shall include the following conditions:

28 (i) The offender shall report to and be available for contact with
29 the assigned community corrections officer as directed;

30 (ii) The offender shall work at department of corrections-approved
31 education, employment, and/or community service;

32 (iii) The offender shall not possess or consume controlled
33 substances except pursuant to lawfully issued prescriptions;

34 (iv) The offender shall pay supervision fees as determined by the
35 department of corrections;

36 (v) The residence location and living arrangements are subject to
37 the prior approval of the department of corrections during the period
38 of community placement; and

1 (vi) The offender shall submit to affirmative acts necessary to
2 monitor compliance with the orders of the court as required by the
3 department.

4 (c) As a part of any sentence imposed under (a) or (b) of this
5 subsection, the court may also order any of the following special
6 conditions:

7 (i) The offender shall remain within, or outside of, a specified
8 geographical boundary;

9 (ii) The offender shall not have direct or indirect contact with
10 the victim of the crime or a specified class of individuals;

11 (iii) The offender shall participate in crime-related treatment or
12 counseling services;

13 (iv) The offender shall not consume alcohol;

14 (v) The offender shall comply with any crime-related prohibitions;
15 or

16 (vi) For an offender convicted of a felony sex offense against a
17 minor victim after June 6, 1996, the offender shall comply with any
18 terms and conditions of community placement imposed by the department
19 of corrections relating to contact between the sex offender and a minor
20 victim or a child of similar age or circumstance as a previous victim.

21 (d) Prior to transfer to, or during, community placement, any
22 conditions of community placement may be removed or modified so as not
23 to be more restrictive by the sentencing court, upon recommendation of
24 the department of corrections.

25 (10)(a) When a court sentences a person to the custody of the
26 department of corrections for an offense categorized as a sex offense
27 committed on or after June 6, 1996, the court shall, in addition to
28 other terms of the sentence, sentence the offender to community custody
29 for three years or up to the period of earned early release awarded
30 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The
31 community custody shall begin either upon completion of the term of
32 confinement or at such time as the offender is transferred to community
33 custody in lieu of earned early release in accordance with RCW
34 9.94A.150 (1) and (2).

35 (b) Unless a condition is waived by the court, the terms of
36 community custody shall be the same as those provided for in subsection
37 (9)(b) of this section and may include those provided for in subsection
38 (9)(c) of this section. As part of any sentence that includes a term
39 of community custody imposed under this subsection, the court shall

1 also require the offender to comply with any conditions imposed by the
2 department of corrections under subsection (14) of this section.

3 (c) At any time prior to the completion of a sex offender's term of
4 community custody, if the court finds that public safety would be
5 enhanced, the court may impose and enforce an order extending any or
6 all of the conditions imposed pursuant to this section for a period up
7 to the maximum allowable sentence for the crime as it is classified in
8 chapter 9A.20 RCW, regardless of the expiration of the offender's term
9 of community custody. If a violation of a condition extended under
10 this subsection occurs after the expiration of the offender's term of
11 community custody, it shall be deemed a violation of the sentence for
12 the purposes of RCW 9.94A.195 and may be punishable as contempt of
13 court as provided for in RCW 7.21.040.

14 (11) If the court imposes a sentence requiring confinement of
15 thirty days or less, the court may, in its discretion, specify that the
16 sentence be served on consecutive or intermittent days. A sentence
17 requiring more than thirty days of confinement shall be served on
18 consecutive days. Local jail administrators may schedule court-ordered
19 intermittent sentences as space permits.

20 (12) If a sentence imposed includes payment of a legal financial
21 obligation, the sentence shall specify the total amount of the legal
22 financial obligation owed, and shall require the offender to pay a
23 specified monthly sum toward that legal financial obligation.
24 Restitution to victims shall be paid prior to any other payments of
25 monetary obligations. Any legal financial obligation that is imposed
26 by the court may be collected by the department, which shall deliver
27 the amount paid to the county clerk for credit. The offender's
28 compliance with payment of legal financial obligations shall be
29 supervised by the department for ten years following the entry of the
30 judgment and sentence or ten years following the offender's release
31 from total confinement. All monetary payments ordered shall be paid no
32 later than ten years after the last date of release from confinement
33 pursuant to a felony conviction or the date the sentence was entered
34 unless the superior court extends the criminal judgment an additional
35 ten years. If the legal financial obligations including crime victims'
36 assessments are not paid during the initial ten-year period, the
37 superior court may extend jurisdiction under the criminal judgment an
38 additional ten years as provided in RCW 9.94A.140, 9.94A.142, and
39 9.94A.145. If jurisdiction under the criminal judgment is extended,

1 the department is not responsible for supervision of the offender
2 during the subsequent period. Independent of the department, the party
3 or entity to whom the legal financial obligation is owed shall have the
4 authority to utilize any other remedies available to the party or
5 entity to collect the legal financial obligation. Nothing in this
6 section makes the department, the state, or any of its employees,
7 agents, or other persons acting on their behalf liable under any
8 circumstances for the payment of these legal financial obligations. If
9 an order includes restitution as one of the monetary assessments, the
10 county clerk shall make disbursements to victims named in the order.

11 (13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
12 court may not impose a sentence providing for a term of confinement or
13 community supervision or community placement which exceeds the
14 statutory maximum for the crime as provided in chapter 9A.20 RCW.

15 (14) All offenders sentenced to terms involving community
16 supervision, community service, community placement, or legal financial
17 obligation shall be under the supervision of the department of
18 corrections and shall follow explicitly the instructions and conditions
19 of the department of corrections. The department may require an
20 offender to perform affirmative acts it deems appropriate to monitor
21 compliance with the conditions of the sentence imposed.

22 (a) The instructions shall include, at a minimum, reporting as
23 directed to a community corrections officer, remaining within
24 prescribed geographical boundaries, notifying the community corrections
25 officer of any change in the offender's address or employment, and
26 paying the supervision fee assessment.

27 (b) For offenders sentenced to terms involving community custody
28 for crimes committed on or after June 6, 1996, the department may
29 include, in addition to the instructions in (a) of this subsection, any
30 appropriate conditions of supervision, including but not limited to,
31 prohibiting the offender from having contact with any other specified
32 individuals or specific class of individuals. The conditions
33 authorized under this subsection (14)(b) may be imposed by the
34 department prior to or during an offender's community custody term. If
35 a violation of conditions imposed by the court or the department
36 pursuant to subsection (10) of this section occurs during community
37 custody, it shall be deemed a violation of community placement for the
38 purposes of RCW 9.94A.207 and shall authorize the department to
39 transfer an offender to a more restrictive confinement status as

1 provided in RCW 9.94A.205. At any time prior to the completion of a
2 sex offender's term of community custody, the department may recommend
3 to the court that any or all of the conditions imposed by the court or
4 the department pursuant to subsection (10) of this section be continued
5 beyond the expiration of the offender's term of community custody as
6 authorized in subsection (10)(c) of this section.

7 The department may require offenders to pay for special services
8 rendered on or after July 25, 1993, including electronic monitoring,
9 day reporting, and telephone reporting, dependent upon the offender's
10 ability to pay. The department may pay for these services for
11 offenders who are not able to pay.

12 (15) All offenders sentenced to terms involving community
13 supervision, community service, or community placement under the
14 supervision of the department of corrections shall not own, use, or
15 possess firearms or ammunition. Offenders who own, use, or are found
16 to be in actual or constructive possession of firearms or ammunition
17 shall be subject to the appropriate violation process and sanctions.
18 "Constructive possession" as used in this subsection means the power
19 and intent to control the firearm or ammunition. "Firearm" as used in
20 this subsection means a weapon or device from which a projectile may be
21 fired by an explosive such as gunpowder.

22 (16) The sentencing court shall give the offender credit for all
23 confinement time served before the sentencing if that confinement was
24 solely in regard to the offense for which the offender is being
25 sentenced.

26 (17) A departure from the standards in RCW 9.94A.400 (1) and (2)
27 governing whether sentences are to be served consecutively or
28 concurrently is an exceptional sentence subject to the limitations in
29 subsections (2) and (3) of this section, and may be appealed by the
30 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

31 (18) The court shall order restitution whenever the offender is
32 convicted of a felony that results in injury to any person or damage to
33 or loss of property, whether the offender is sentenced to confinement
34 or placed under community supervision, unless extraordinary
35 circumstances exist that make restitution inappropriate in the court's
36 judgment. The court shall set forth the extraordinary circumstances in
37 the record if it does not order restitution.

38 (19) As a part of any sentence, the court may impose and enforce an
39 order that relates directly to the circumstances of the crime for which

1 the offender has been convicted, prohibiting the offender from having
2 any contact with other specified individuals or a specific class of
3 individuals for a period not to exceed the maximum allowable sentence
4 for the crime, regardless of the expiration of the offender's term of
5 community supervision or community placement.

6 (20) The court may order an offender whose sentence includes
7 community placement or community supervision to undergo a mental status
8 evaluation and to participate in available outpatient mental health
9 treatment, if the court finds that reasonable grounds exist to believe
10 that the offender is a mentally ill person as defined in RCW 71.24.025,
11 and that this condition is likely to have influenced the offense. An
12 order requiring mental status evaluation or treatment must be based on
13 a presentence report and, if applicable, mental status evaluations that
14 have been filed with the court to determine the offender's competency
15 or eligibility for a defense of insanity. The court may order
16 additional evaluations at a later date if deemed appropriate.

17 (21) In any sentence of partial confinement, the court may require
18 the defendant to serve the partial confinement in work release, in a
19 program of home detention, on work crew, or in a combined program of
20 work crew and home detention.

21 (22) All court-ordered legal financial obligations collected by the
22 department and remitted to the county clerk shall be credited and paid
23 where restitution is ordered. Restitution shall be paid prior to any
24 other payments of monetary obligations.

25 **Sec. 5.** RCW 9.94A.137 and 1995 1st sp.s. c 19 s 20 are each
26 amended to read as follows:

27 (1)(a) An offender is eligible to be sentenced to a work ethic camp
28 if the offender:

29 (i) Is sentenced to a term of total confinement of not less than
30 ~~((sixteen))~~ twelve months and one day or more than thirty-six months;
31 ~~((and))~~

32 (ii) Has no current or prior convictions for any sex offenses or
33 for violent offenses ~~((other than drug offenses for manufacturing,~~
34 ~~possession, delivery, or intent to deliver a controlled substance))~~
35 and

36 (iii) Has no current violations of the uniform controlled
37 substances act under chapter 69.50 RCW.

1 (b) The length of the work ethic camp shall be at least one hundred
2 twenty days and not more than one hundred eighty days. (~~Because of~~
3 ~~the conversion ratio, earned early release time shall not accrue to~~
4 ~~offenders who successfully complete the program.~~)

5 (2) If the sentencing judge determines that the offender is
6 eligible for the work ethic camp and is likely to qualify under
7 subsection (3) of this section, the judge shall impose a sentence
8 within the standard range and may recommend that the offender serve the
9 sentence at a work ethic camp. (~~The sentence shall provide that if~~
10 ~~the offender successfully completes the program, the department shall~~
11 ~~convert the period of work ethic camp confinement at the rate of one~~
12 ~~day of work ethic camp confinement to three days of total standard~~
13 ~~confinement.~~) In sentencing an offender to the work ethic camp, the
14 court shall specify: (a) That upon completion of the work ethic camp
15 the offender shall be released on community custody for any remaining
16 time of total confinement; (b) the applicable conditions of supervision
17 on community custody status as required by RCW 9.94A.120(9)(b) and
18 authorized by RCW 9.94A.120(9)(c); and (c) that violation of the
19 conditions may result in a return to total confinement for the balance
20 of the offender's remaining time of confinement.

21 (3) The department shall place the offender in the work ethic camp
22 program, subject to capacity, unless: (a) The department determines
23 that the offender has physical or mental impairments that would prevent
24 participation and completion of the program; (b) the department
25 determines that the offender's custody level prevents placement in the
26 program; (~~or~~) (c) the offender refuses to agree to the terms and
27 conditions of the program; (d) the offender has been found by the
28 United States attorney general to be subject to a deportation detainer
29 or order; or (e) the offender has participated in the work ethic camp
30 program in the past.

31 (4) An offender who fails to complete the work ethic camp program,
32 who is administratively terminated from the program, or who otherwise
33 violates any conditions of supervision, as defined by the department,
34 shall be reclassified to serve the unexpired term of his or her
35 sentence as ordered by the sentencing judge and shall be subject to all
36 rules relating to earned early release time.

37 (5) During the last two weeks prior to release from the work ethic
38 camp program the department shall provide the offender with
39 comprehensive transition training.

1 **Sec. 6.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are
2 each reenacted and amended to read as follows:

3 Alternatives to total confinement are available for offenders with
4 sentences of one year or less. These alternatives include the
5 following sentence conditions that the court may order as substitutes
6 for total confinement:

7 (1) One day of partial confinement may be substituted for one day
8 of total confinement;

9 (2) In addition, for offenders convicted of nonviolent offenses
10 only, eight hours of community service may be substituted for one day
11 of total confinement, with a maximum conversion limit of two hundred
12 forty hours or thirty days. Community service hours must be completed
13 within the period of community supervision or a time period specified
14 by the court, which shall not exceed twenty-four months, pursuant to a
15 schedule determined by the department; and

16 (3) For offenders convicted of nonviolent and nonsex offenses, the
17 court may authorize county jails to convert jail confinement to an
18 available county supervised community option and may require the
19 offender to perform affirmative conduct pursuant to section 2 of this
20 act.

21 For sentences of nonviolent offenders for one year or less, the
22 court shall consider and give priority to available alternatives to
23 total confinement and shall state its reasons in writing on the
24 judgment and sentence form if the alternatives are not used.

25 NEW SECTION. **Sec. 7.** The legislature recognizes the utility of
26 drug court programs in reducing recidivism and assisting the courts by
27 diverting potential offenders from the normal course of criminal trial
28 proceedings.

29 NEW SECTION. **Sec. 8.** A new section is added to chapter 10.01 RCW
30 to read as follows:

31 (1) The superior and district courts of Washington may establish
32 drug court programs to accept offenders that have been diverted by the
33 courts from the normal course of prosecution for drug offenses.

34 (2) Pursuant to this section, "drug court" is defined as a program
35 that meets the criteria set forth in section 9 of this act.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 2.28 RCW
2 to read as follows:

3 (1) Counties may establish and operate drug courts.

4 (2) For the purposes of this section, "drug court" means a court
5 that has special calendars or dockets designed to achieve a reduction
6 in recidivism and substance abuse among nonviolent, substance abusing
7 offenders by increasing their likelihood for successful rehabilitation
8 through early, continuous, and intense judicially supervised treatment;
9 mandatory periodic drug testing; and the use of appropriate sanctions
10 and other rehabilitation services.

11 (3) Any jurisdiction that seeks a state appropriation to fund a
12 drug court program must first exhaust all federal funding received from
13 the office of national drug control policy that is available to support
14 the operations of its drug court and associated services.

15 NEW SECTION. **Sec. 10.** The department of corrections must develop
16 criteria for successful completion of the special drug offender
17 sentencing alternative program by December 31, 1999.

18 NEW SECTION. **Sec. 11.** If specific funding for the purposes of
19 this act, referencing this act by bill or chapter number, is not
20 provided by June 30, 1999, in the omnibus appropriations act, this act
21 is null and void.

22 NEW SECTION. **Sec. 12.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

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